

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Robert McDowell,**  
Petitioner-Appellant,

v.

**Delaware County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 10-28-0195**  
**Parcel No. 000-250-15-01-001-00**

On July 15, 2011, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Robert McDowell requested his appeal be considered without hearing and did not submit additional evidence in support of his petition. He was self-represented. The Board of Review designated Delaware County Attorney John Bernau as its legal representative. The Board of Review submitted documentary evidence in support of its decision. The Appeal Board now having examined the entire record, and being fully advised, finds:

***Findings of Fact***

Robert McDowell, owner of property located at 240th Street, Manchester, Iowa, appeals from the Delaware County Board of Review decision reassessing his property. According to the property record card, the improvements consist of a one-story, metal pole-style, mini-storage building having 5460 square feet on a concrete-slab foundation. It was built in 1990. The building has no HVAC, well, or septic. There are ten mini-storage over-head doors varying in size from 4-foot wide by 7-foot high to 9-foot wide to 10-foot high. The building is in normal condition, is graded 4+00, and has 40% physical depreciation. It is located on a 1.050 acre site.

The real estate was classified commercial on the January 1, 2010, assessment and valued at \$59,300, representing \$15,600 in land value and \$43,700 in improvement value. This was an increase from the previous year's assessment.

McDowell protested to the Board of Review on the grounds that the assessment was not equitable as compared with assessments of other like property in the county under Iowa Code section 441.37(1)(a) and that the property was assessed for more than authorized by law under section 441.37(1)(b). He claimed \$48,600, allocated \$10,900 to land value and \$37,700 to improvement value, and was the actual value and a fair assessment of the property. The Board of Review denied the protest.

McDowell then appealed to this Board again asserting the assessment was inequitable and claiming the property is not assessable, is exempt from taxes, or is misclassified under 441.37(1)(c). On appeal, it appears McDowell's argument is also a request for reclassification of the property to agricultural realty. We note, however, it does not appear that this claim was brought before the Board of Review, and we cannot consider it.

McDowell identified other mini-storage properties on his Board of Review petition listing the parcel number, assessed value, and total square feet summarized in the chart below:<sup>1</sup>

Parcel No	Class	Bldg SF	Improv. AV	Improv. AV PSF	Land SF	Land AV	Land AV PSF
Subject Property	C	5460	\$43,700	\$8.00	45,738	\$15,600	\$0.34
000-450-00-04-044-09	C	3780	\$23,400	\$6.19	None	Leased	None
000-510-00-02-044-50	C	3456	\$24,400	\$7.06	6098	\$ 2,100	\$0.34
000-070-02-00-023-10	C	3780	\$25,200	\$6.67	14,941	\$12,300	\$0.82
000-070-02-00-023-20	C	2160	\$14,300	\$6.62	7492	\$ 6,200	\$0.83
000-690-00-01-075-00	C	4840	\$36,200	\$7.48	6000	\$ 3,800	\$0.63
000-690-00-01-050-00	C	3520	\$24,900	\$7.07	8052	\$ 5,100	\$0.63
000-631-32-21-021-00	C	3864	\$25,200	\$6.52	8970	\$ 4,500	\$0.50

<sup>1</sup> We have included additional information in the chart that was not on the petition form but was available in documents McDowell attached to it.

Excluding the subject property, the assessed values of the improvements ranges from \$6.19 to \$7.48 per-square-foot with a median of \$6.67 per square foot. The subject property's improvements are assessed at \$8.00 per square foot which is above the high end of the range. We are unable to determine from the evidence presented whether the quality of construction, sizes, and number of overhead doors, or some other features of the subject property are superior to the comparable properties' features, which would result in a slightly higher assessment.

Again excluding the subject property, the assessed value of the land ranges from \$0.34 per square foot to \$0.83 per square foot with a median of \$0.63 per square foot. The subject property land is assessed at \$0.34 per square foot which is at the lowest end of the range of the comparable properties. We also note it appears from the property record card that the subject property's land is assessed on a first-acre and subsequent-acre basis, which is common in property assessment. The first acre is assigned a value and subsequent acres are assigned value based on diminishing return. We cannot confirm whether the other properties are assessed the same way, but because the subject has the largest site size and lowest per-square-foot value this would seem reasonable.

McDowell reports the construction was not new when placed on the land in 1990, but a torn-down and reconstructed, used building. McDowell provided an opinion letter dated November 15, 2008, written by Broker Teresa Greve referencing the August 22, 2007, sale of a comparable property located at 957 East Main Street in Manchester for \$58,750. Based on this one sale Greve estimated the market value of the subject property between \$35,000 and \$40,000. We give Greve's opinion little weight because it relies on only one older sale and provides no sale analysis or comparison of the sale property and the subject property.

On his appeal petition to this Board, McDowell claims his property is surrounded by agricultural land and should be classified agricultural, not commercial. He contends that another company in the area has maintained an agricultural classification. As previously noted, McDowell did

not raise a claim of misclassification before the Board of Review; therefore, this Board can not consider the claim. However, even had the claim had been properly raised it would fail because he has not shown the primary use of the property is for an agricultural purpose with an intent to profit. *Iowa Admin. Code r. 701-71.1(3)*. Additionally, all the mini-storage units he listed are uniformly classified as commercial property, similar to the subject property.

Reviewing the limited record, we find the preponderance of the evidence does not support McDowell's claims that the property is inequitably assessed or over-assessed as of January 1, 2010.

### ***Conclusion of Law***

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2).

The assessed value of the property “shall be one hundred percent of its actual value.” § 441.21(1)(a). McDowell provided no evidence to support his estimate of the fair market value of his property.

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). The preponderance of the evidence does not support McDowell’s claim that his property is inequitably assessed.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The preponderance of the evidence offered to establish the fair market value of the subject property was insufficient to prove over-assessment.

Viewing the record as a whole, we determine the preponderance of the evidence does not support McDowell’s claims of over-assessment or inequitable assessment as of January 1, 2010. Therefore, we affirm the McDowell property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2010, is \$59,300, representing \$15,600 in land value and \$43,700 in improvement value.

THE APPEAL BOARD ORDERS that the January 1, 2010, assessment as determined by the Delaware County Board of Review is affirmed.

Dated this 19 day of August 2011.

Jacqueline Rypma  
Jacqueline Rypma, Presiding Officer

Richard Stradley  
Richard Stradley, Board Chair

Karen Oberman  
Karen Oberman, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>8-19</u> , 201 <u>1</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>[Signature]</u>